

## CHAPTER 9 SECTION 1.1B

### FORMER SPOUSES

Issue Date: April 19, 1989

Authority: [32 CFR 199.4\(b\)\(2\)\(ii\)](#) and DoDI 6000.3 authorized by OASD Memo of Dec. 5, 1989

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#### I. ISSUE

When are former spouses of members and former members of the Uniformed Services eligible for TRICARE/CHAMPUS benefits?

#### II. BACKGROUND

A. On September 8, 1982, Public Law 97-252 was signed into effect. Sections 1004 and 1006 of that law provide for continuation of TRICARE/CHAMPUS eligibility for former spouses under certain circumstances. As a result, a spouse of a member or former member of the Uniformed Services may no longer lose TRICARE/CHAMPUS eligibility as of 12:01 a.m. of the day following the date of a final decree of divorce, dissolution, or annulment of the marriage.

B. Section 645 of Public Law 98-525, which was effective October 1, 1984, increased the number of individuals who may be eligible as former spouses. Public Laws 100-271, 100-456, and 101-189, established revised eligibility dates.

C. Public Law 102-484, Subsection 4407 (b) that was effective October 23, 1992, allows former spouses who buy conversion health policies to retain TRICARE/CHAMPUS eligibility for preexisting conditions that aren't covered by the conversion policies for 24 months instead of the previous 12 month limit for extended TRICARE/CHAMPUS eligibility.

#### III. POLICY

A. There are two groups of former spouses (i.e., spouses who were married to a military member or former member but whose marriage has been terminated by a final decree of divorce, dissolution, or annulment). To be eligible for benefits, a former spouse must meet the criteria of paragraphs 1. through 5. below and must qualify either under the group defined in [paragraph III.A.6.a.](#) or [paragraph III.A.6.b.:](#)

1. Must be unremarried, unless the remarriage is terminated by annulment. An annulment restores unmarried status.

2. Must not be covered by an employer-sponsored health plan
  3. Must have been married to a member or former member who performed at least 20 years of service which can be credited in determining the member's or former member's eligibility for retired or retainer pay
  4. Must not be eligible for Part A of Title XVIII of the Social Security Act (Medicare)
  5. Must not be the family member of a NATO member
  6. Must meet the requirements of paragraph a. or b. below:
    - a. The former spouse must have been married to the same member or former member for at least 20 years, at least 20 of which were creditable in determining the member's or former member's eligibility for retired or retainer pay. Eligibility continues indefinitely unless affected by any of conditions 1 through 5 above.
      - (1) If the date of the final decree of divorce, dissolution, or annulment was before February 1, 1983, the former spouse is eligible only for care received on or after January 1, 1985.
      - (2) If the date of the final decree of divorce, dissolution, or annulment was on or after February 1, 1983, the former spouse is eligible for coverage of health care which is received after the date of the decree of divorce, dissolution, or annulment.
    - b. The former spouse must have been married to the same military member or former member for at least 20 years, and at least 15 but less than 20 of those married years were creditable in determining the member's or former member's eligibility for retired or retainer pay.
      - (1) If the date of the final divorce, dissolution, or annulment is before January 1, 1985, eligibility does not begin until January 1, 1985. If the date of the divorce, dissolution, or annulment is between January 1, 1985 and April 1, 1985, the eligibility date is the date of the divorce, dissolution, or annulment. Eligibility continues indefinitely unless affected by any of conditions 1 through 5 above.
      - (2) If the date of the final decree of divorce, dissolution, or annulment is on or after April 1, 1985, but before September 29, 1988, the former spouse is eligible only for care received from the date of the divorce, dissolution, or annulment until December 31, 1988, or for two years from the date of the divorce, dissolution, or annulment, whichever is later.
      - (3) If the date of the divorce, dissolution, or annulment is on or after September 29, 1988, the former spouse is eligible only for care received within the 365 days (366 in the case of a leap year) immediately following the date of the divorce, dissolution, or annulment.
- B. The law defines former spouses as family members of the member or former member. Therefore, for purposes of TRICARE/CHAMPUS, claims forms submitted by eligible former spouses, block #7, "Sponsor", shall represent the member or former member.

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#### IV. POLICY CONSIDERATIONS

A. For specific additional requirements, entitlements, and beginning dates of eligibility for a spouse who may qualify as a former spouse because of abuse, see [Chapter 9, Section 10.1B](#).

B. For specific additional requirements, entitlements, and beginning dates of eligibility, for a spouse who may qualify as a former spouse of certain deceased reservists, see [Chapter 9, Section 10.1C](#).

#### V. EXCEPTIONS

A. Former spouses are eligible for benefits under the Basic Program only, and are classified as family members of retirees. In accordance with 10 U.S.C. 1079 (d), they are not eligible for any benefits under the Program for Persons with Disabilities, except as indicated in [Chapter 9, Section 10.1B](#).

B. These former spouse provisions do not apply to CHAMPVA.

C. In order to be eligible, a former spouse must have been married for at least 20 years to one individual. A former spouse who was married to two individuals, each marriage lasting less than 20 years but both marriages totaling 20 years or more, is not eligible for TRICARE/CHAMPUS, even if all other conditions are met.

D. When eligibility ceases for a former spouse who is eligible under the guidelines of [paragraph III.A.6.b.](#) under POLICY above, limited TRICARE/CHAMPUS coverage may be extended for preexisting conditions, for an additional 24 months from the date of termination of that coverage, if the following conditions are met:

1. The former spouse purchased the Uniformed Services Voluntary Insurance Policy (US VIP) conversion health insurance policy offered by an authorized insurance company.

*NOTE: The option to purchase USVIP will end on October 1, 1994. The Continued Health Care Benefit Program (CHCBP) will replace USVIP. See [Chapter 9, Section 13.1](#) for further information regarding CHCBP.*

2. The US VIP conversion health insurance plan has excluded a preexisting condition from coverage.

3. The Patient Administration Department of a Uniformed Service military facility has verified that the condition is preexisting and has been excluded from the health insurance coverage. The respective Service will then issue a Memorandum of Authorization (MOA) that specifies the condition to be TRICARE/CHAMPUS-covered and the length of time for which that care is authorized. The MOA will approve care only for the conditions identified as preexisting. No family member's ID card will be issued. (See end of this section for sample of MOA.)

4. When the former spouse receives civilian medical care, he or she must first submit a claim to the US VIP conversion health insurance plan. When the insurance plan adjudicates the claim, any care denied for treatment of a preexisting condition may be submitted to

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TRICARE/CHAMPUS for payment. Along with the TRICARE/CHAMPUS claim the former spouse must, in all cases, submit the Explanation of Benefits (EOB) from the insurance plan, and a copy of the MOA. For TRICARE/CHAMPUS payments to be extended, the care must be directly related to the preexisting condition and must be rendered within the coverage dates on the MOA.

5. The specified date of commencement of the TRICARE/CHAMPUS coverage for preexisting conditions is the latter of:

a. The date the person is no longer a dependent former spouse under 10 U. S.C. 1072(2)(H); and

b. The date of the purchase of the policy.

*NOTE: Until the DEERS system is modified to identify former spouses with preexisting conditions, they will be coded by DEERS as "ineligible" even though there is reason to believe that they may, in fact, be eligible. Any claims for services from such former spouses must be accompanied by an MOA as referenced in the preceding paragraph above. The MOA will serve to verify eligibility of the former spouse for the periods of time and for the preexisting conditions identified in that memorandum. A sample copy of the MOA appears at the end of this Section. For FI actions required on questionable beneficiary eligibility and nonavailability statements, see the [ADP Manual, Chapter 9, Section 3, paragraph 1.3.](#) and [paragraph 1.4.](#)*

E. A former spouse who has remarried is permanently ineligible for TRICARE/CHAMPUS regardless of whether the subsequent remarriage has ended for any reason. The only exception to this is a former spouse who has remarried and whose remarriage is voided by an annulment finding that the marriage was illegal under the laws of the state in which the marriage occurred. Illegal marriages are primarily marriages where the parties cannot consent (under age), prohibited marriages (between close relatives), marriages resulting in bigamy, and marriages based on fraud. In such cases, TRICARE/CHAMPUS eligibility is reinstated as of the date of the annulment.

Of course, if the remarriage is to a TRICARE/CHAMPUS sponsor, the former spouse will be eligible for TRICARE/CHAMPUS as a result of the remarriage, regardless of his or her status as a former spouse.

(Procedural guidelines contained in the [OPM Part Two, Chapter 1, Section IV.E.](#))

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